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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,416	08/20/2001	Brian Darrell Hollis	DN2001162	5742

7590 12/20/2002

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EXAMINER

SOHN, SEUNG C

ART UNIT PAPER NUMBER

2878

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,416

Applicant(s)

HOLLIS ET AL.

Examiner

Seung C. Sohn

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2&3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "100" in Fig. 4. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. ***Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Bingham et al. (Patent No. US 4,576,287).***

Referring to claim 1, Bingham et al. shows in Figs. 2-4 the following elements of Applicant's claim:

a roller (66), a flag arm (78), and a photoelectric detector (87), wherein the roller (66) is connected to the flag arm (78) and vertical movement of the roller causes the flag arm to move, and movement of the flag arm causes the photoelectric detector (87) to send a signal, the roller switch being characterized

by: a pair of flag arms (72 & 78), the roller (66) being mounted on a shaft (67) that extends between the pair of flag arms (Col. 3, lines 17-54).

Referring to claim 2, Bingham et al. discloses that adjacent to the roller shaft (67) is a tube (38, i.e., elongated guide) that extends between both flag arms (Col. 2, lines 33-34);.

Referring to claim 3, Bingham et al. shows in Fig. 4 that the flag arms (72 & 78) pivot about a shaft (67) that extends between the two arms and is adjacent to the roller (66).

Referring to claim 4, Bingham et al. shows in Fig. 4 that vertical movement of the roller (66) causes at least one flag arm (78) to unblock the photoelectric detector (87).

Referring to claim 5, Bingham et al. shows in Fig. 4 that the roller switch is capable of pivoting about one end when mounted onto a support structure.

Referring to claim 6, Bingham et al. shows in Fig. 4 that the roller (66) and the flag arms are capable of being fixedly raised prior to pivoting of the roller switch.

Referring to claim 7, Bingham et al. shows in Fig. 4 that each flag arm is attached to an end plate, a first end plate being further attached to pivoting means and the second end plate being further attached to locking tube into which a locking pin (74) is inserted, the roller switch capable of pivoting about the first end plate when the locking pin is removed from the tube.

Referring to claim 8, Bingham et al. shows in Figs. 2-4 the following steps of Applicant's claim:

- a) placing the material on a moving conveyor belt (18), passing the material under a roller (66),
 - b) causing the roller (66) to vertically move,
 - c) pivoting a flag arm (78) in response to the movement of the roller (66),
 - d) generating a signal in response to the movement of the flag arm (78)
(Col. 4, lines 31-37),
 - e) measuring the length of the material,
- wherein the method is further characterized by the additional step of
- f) passing the material under a tube (38, i.e., elongated guide) prior to passing the material under the roller (66) (Col. 2, lines 33-34); and
 - g) pivoting the flag arm (78) about a shaft (67) that extends through the tube (38).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dalziel (Patent No. US 5,412,521) discloses a gate, its flag, the optical switch, the actuator and a pivot pin in Fig. 6.

Gerlier (Patent No. US 5,711,649) discloses an apparatus and method for stacking sheets on a stationary stack.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seung C. Sohn whose telephone number is (703) 308-4093. The examiner can normally be reached on Monday through Friday from 8:30 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on (703) 308-4852. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

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December 12, 2002



Kevin Pyo
Primary Examiner